

**1. Provisional Rejection of claims 1-8 and 10 under the doctrine of obviousness
type double patenting**

The Official Action states that claims 1-8 and 10 are provisionally rejected under the doctrine of obviousness-type double patenting over claims 1-9 of co-pending application USSN 10/589,082.

RESPONSE

Applicants respectfully traverse this provisional rejection. Applicants respectfully note that the present application was filed earlier than the co-pending '082 application. Accordingly, the Examiner is respectfully requested to withdraw this provisional rejection of the presently pending claims since, with the filing of this Response and Amendment, all rejections of these claims will be overcome.

2. Rejection of claims 1-8 and 10 under 35 U.S.C. §112, 1st paragraph

The Official Action states that claims 1-8 and 10 are rejected under 35 U.S.C. §112, 1st paragraph as being non-enabled. In particular, the Official Action states, in relevant part, that:

“...the specification, while being enabled for some of the compounds, does not reasonably provide enablement for

- 1) its hydrates, solvates, or hydrates of the salts or solvate of salts,
- 2) for all the numerous R1, R2 and R6 to be all the various large groups such as cycloalkoxy, that too fluoro substituted cyclo groups or functional groups...

R1 and R2 [are enabled] to be alkoxy or hydroxyl, [but not] cycloalkoxy, that too fluoro substituted cyclo groups or functional groups.”

RESPONSE

Applicants respectfully traverse this rejection. However, solely to remove the basis for this rejection, applicants have made the following amendments to the claims:

- 1) Applicants have herewith deleted any reference to hydrates, solvates, hydrates of the salts and solvates of the salts of the claimed compounds from the presently amended claims.
- 2) Applicants have amended each compound claim (claims 1-8) for substituents R1 and R2 to only recite the substituents which the Examiner has indicated are indeed enabled.

Accordingly, applicants respectfully request that the Examiner reconsider and withdraw this rejection as the basis for this rejection has been rendered moot by applicants' amendment to the claims.

CONCLUSION

Based upon the above amendments and remarks submitted herewith, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw the rejections and allow all pending claims. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned attorney if she has any questions or comments.

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THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

Tel: (703) 548-6284
Fax: (703) 683-8396
JBG/SMM/ROA.doc

Respectfully submitted,
THE NATH LAW GROUP

A handwritten signature in black ink, appearing to read 'Gary M. Nath', is written over a horizontal line.

Gary M. Nath
Reg. No. 26,865
Joshua B. Goldberg
Reg. No. 44,126
Sheldon M. McGee
Reg. No. 50,454
Customer No. 34375